

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

WILLIAM T. MOCK; CHRISTOPHER LEWIS;
MAXIM DEFENSE INDUSTRIES, LLC, a limited
liability company; and FIREARMS POLICY
COALITION, INC., a nonprofit corporation,

Plaintiffs,

v.

MERRICK GARLAND, in his official capacity as
Attorney General of the United States; the UNITED
STATES DEPARTMENT OF JUSTICE; STEVE
DETTELBACH, in his official capacity as the
Director of the Bureau of Alcohol, Tobacco,
Firearms and Explosives; and the BUREAU OF
ALCOHOL, TOBACCO, FIREARMS AND
EXPLOSIVES,

Defendants.

Civil Action No. 4:23-cv-00095-O

PLAINTIFFS' MOTION FOR INJUNCTION PENDING APPEAL

Pursuant to Federal Rule of Civil Procedure 62(d) and Federal Rule of Appellate Procedure 8(a)(1)(C), Plaintiffs William T. Mock; Christopher Lewis; Maxim Defense Industries, LLC; and Firearms Policy Coalition, Inc., through their undersigned counsel, move this honorable Court for an injunction pending appeal prohibiting Defendants and their officers, agents, servants, and employees from implementing and enforcing the provisions established and amended by the Department of Justice and Bureau of Alcohol, Tobacco, Firearms, and Explosives' Final Rule entitled *Factoring Criteria for Firearms with Attached 'Stabilizing Braces'* ("Final Rule"), 88 Fed. Reg. 6,478 (Jan. 31, 2023).

As explained in the accompanying brief in support, Plaintiffs satisfy each factor for an injunction pending appeal: (1) they are likely to succeed on the merits of their claims under the U.S.

Constitution and the Administrative Procedure Act; (2) they continue to face irreparable injury absent an injunction; (3) Plaintiffs' injuries outweigh any harm that the injunction will cause Defendants pending appeal; and (4) an injunction will serve the public interest. *See Weingarten Realty Investors v. Miller*, 661 F.3d 904, 910 (5th Cir. 2011). Accordingly, Plaintiffs respectfully request that this Court issue an injunction pending appeal.¹

Plaintiffs' counsel conferred with counsel for Defendants, who oppose the relief requested herein.

DATED this 30th day of March 2023.

Respectfully submitted,

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¹ If this Court declines to issue an injunction pending appeal, Plaintiffs respectfully request that this Court do so as quickly as possible to allow Plaintiffs to pursue their claims with the U.S. Court of Appeals for the Fifth Circuit. Due to the emergency nature of this case, Plaintiffs are forced to seek Fifth Circuit review as quickly as possible. Plaintiffs' irreparable harms grow by the day.

*Admitted *pro hac vice*

Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that, on March 30, 2023, a true and correct copy of the foregoing document was served via the Court's CM/ECF system to all counsel of record.

/s/ Cody J. Wisniewski

Cody J. Wisniewski

FIREARMS POLICY COALITION

CERTIFICATE OF CONFERENCE

I hereby certify that, on March 30, 2023, Plaintiffs' counsel, Cody J. Wisniewski conferred with Defendants' counsel, Jody Lowenstein, Michael Drezner, and Faith Lowry with the U.S. Department of Justice, Civil Division, via email, who stated that Defendants oppose the relief request in this Motion.

/s/ Cody J. Wisniewski

Cody J. Wisniewski

FIREARMS POLICY COALITION